

**ROCKY VIEW COUNTY
SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

Board Order No.: 2019-SDAB-058

File No.: 05735088; PRDP20193107

Appeal by: Samuele Langeli

Appeal Against: Development Authority of Rocky View County

Hearing Date: 2019 November 20

Decision Date: 2019 December 3

Board Members: D. Henn, Chair
T. Fehr
H. George
M. Goetjen
W. Metzger

DEVELOPMENT APPEAL DECISION

INTRODUCTION

[1] This is an appeal to the Rocky View County Subdivision and Development Appeal Board (the Board) from a decision of the Rocky View County Development Authority issued October 30, 2019. In this decision, the Development Authority refused a development permit for the construction of two accessory buildings (storage shed and gazebo), relaxation of the minimum front and side yard setback requirements at 31010 Woodland View (the Lands).

[2] Upon notice being given, this appeal was heard on November 20, 2019 in Council Chambers of Rocky View County's County Hall, located at 262075 Rocky View Point, Rocky View County, Alberta.

DECISION

[3] The appeal is allowed and the decision of the Development Authority is overturned. A development permit shall be issued subject to the following conditions:

Description:

1. That the construction of two accessory buildings (storage shed and gazebo) may take place on the Lands in accordance with the site plan submitted with the application and conditions of this permit.
 - a) That the front yard setback (east) of the proposed accessory building (storage shed) is relaxed from **45.00 m (147.64 ft.)** to **42.00 m (137.80 ft.)**.
 - b) That the side yard setback (north) of the proposed accessory building (storage shed) is relaxed from **15.00 m (49.21 ft.)** to **7.40 m (24.28 ft.)**.
 - c) That the front yard setback (east) of the proposed accessory building (gazebo) is relaxed from **45.00 m (49.21 ft.)** to **9.80 m (32.15 ft.)**.
 - d) That the side yard setback (north) of the proposed accessory building (gazebo) is relaxed from **15.00 m (49.21 ft.)** to **14.00 m (45.93 ft.)**.

Permanent:

2. That the accessory buildings (storage shed and gazebo) shall not be used for commercial purposes at any time, except for a Home-Based Business, Type I, or an approved Home-Based Business, Type II.
3. That the accessory buildings (storage shed and gazebo) shall not be used for residential occupancy at any time.
4. That there shall be no more than 1.00 m (3.28 ft.) of fill placed adjacent to or within 15.00 m (49.21 ft.) of the proposed building under construction, which is used to establish approved final grades unless a development permit has been issued for additional fill and topsoil.
5. That the exterior siding and roofing materials of the accessory buildings (storage shed and accessory buildings) shall be similar to the existing dwelling, single-detached.
6. That permanent landscaping shall be placed along the northeast corner of the Lands for the purposes of screening the accessory building (gazebo) from adjacent parcels. This landscaping must be in place within twenty-four months of the issuance of this development permit.
7. That if the development authorized by this development permit is not commenced with reasonable diligence within twelve months from the date of issue, and completed within twenty-four months of the issue, the permit is deemed to be null and void, unless an extension to this permit shall first have been granted by the Development Authority.

Advisory:

8. That any other federal, provincial, or County permits, approvals, and/or compliances, are the sole responsibility of the Applicant/Owner.
9. That during construction of the accessory building, all construction and building materials shall be maintained on site, in a neat and orderly manner. Any debris or

garbage shall be stored/placed in garbage bins and disposed of at an approved disposal facility.

10. That the County's Noise Bylaw C-5772-2003 shall be adhered to at all times.
11. That a County building permit and sub-trade permits shall be obtained through Building Services, prior to any construction taking place.

BACKGROUND

[4] On August 30, 2019, Samuele Langeli (the Owner) submitted a development permit application for the construction of two accessory buildings (storage shed and gazebo), relaxation of the minimum front and side yard setback requirements.

[5] The Lands are located at Lot 15 Block 1 Plan 0711356; NE-35-25-03-W5M and located approximately 0.81 km (1/2 mile) north of Highway 1A and on the west side of Woodland Road. The Lands are 0.80 hectares (1.98 acres) in area and are owned by Langeli Samuele and Luisa Langeli-Cusano.

[6] The Lands' land use designation is Residential One and is regulated in section 48 of the Rocky View County *Land Use Bylaw C-4841-97* (the *Land Use Bylaw*).

[7] On October 30, 2019, the Development Authority refused to grant a development permit for the construction of two accessory buildings (storage shed and gazebo), relaxation of the minimum front and side yard setback requirements on the following grounds:

- 1) The front yard setback (east) of the proposed accessory building (storage shed) does not meet the minimum requirement as per section 48.5 of the *Land Use Bylaw*.

Required: 45.00 m (147.64 ft.)

Requested: 42.00 m (137.80 ft.)

- 2) The side yard setback (north) of the proposed accessory building (storage shed) does not meet the minimum requirement as per section 48.5 of the *Land Use Bylaw*.

Required: 15.00 m (49.21 ft.)

Requested: 7.40 m (24.28 ft.)

- 3) The front yard setback (east) of the proposed accessory building (gazebo) does not meet the minimum requirement as per section 48.5 of the *Land Use Bylaw*.

Required: 45.00 m (49.21 ft.)

Requested: 9.80 m (32.15 ft.)

- 4) The side yard setback (north) of the proposed accessory building (gazebo) does not meet the minimum requirement as per Section 48.5 of the *Land Use Bylaw*.

Required: 15.00 m (49.21 ft.)

Requested: 14.00 m (45.93 ft.)

[8] On November 1, 2019, the Appellant appealed the Development Authority's decision. The Notice of Hearing was circulated to 36 adjacent landowners in accordance with the *Municipal Government Act*, RSA 2000, c M-26 and Rocky View County Council Policy C-327, *Circulation and Notification Standards*.

SUMMARY OF EVIDENCE

[9] The Board heard verbal submissions from:

- (1) Sandra Khouri, Planner, for the Development Authority;
- (2) Sean MacLean, Supervisor Planning and Development, for the Development Authority;
- (3) Samuele Langeli, the Appellant; and
- (4) Gerry Neustaedter, in support of the appeal.

[10] The Board received four letters in support of the appeal from:

- (1) Marianne Bogh Jensen;
- (2) Gerry Neustaedter;
- (3) Adnan Zalzala; and
- (4) Shafik Joseph and Bann Yonan.

[11] The Board received one letter in opposition of the appeal from:

- (1) Janet and Larry Bantle

Development Authority's Submissions

[12] The proposed 42.00 m (137.80 ft.) front yard setback (east) of the storage shed requires a 6.67% relaxation which is within the Development Authority's variance authority of 50.00%.

[13] The proposed 7.40 m (24.28 ft.) side yard setback (north) of the storage shed requires a 50.67% relaxation which exceeds the Development Authority's variance authority of 25.00%.

[14] The proposed 9.80 m (32.15 ft.) front yard setback (east) of the gazebo requires a 78.22% relaxation which exceeds the Development Authority's variance authority of 50.00%.

[15] The proposed 14.00 m (45.93 ft.) side yard setback (north) of the gazebo requires a 6.67% relaxation which is within the Development Authority's variance authority of 25.00%.

[16] The Development Authority's variance powers are outlined in sections 12.2 of the *Land Use Bylaw*. Two of the setback requests exceed the Development Authority's variance powers and therefore the entire application was refused.

[17] The developable area of the Lands is very limited due to a wetland. The dwelling on the Lands also required setback relaxations due to the limited the developable area.

[18] There is a road allowance to the north of the Lands that was taken when the northern property was subdivided in 2001. The road dedication would have been taken to serve as future access to the parcels to the west of the road allowance.

[19] The proposed accessory building (storage shed) would infringe on the road allowance's setback requirement.

Appellant's Submissions

[20] The building sites of the proposed accessory buildings were chosen because of the limited developable area on the Lands. The Lands are restricted by a wetland and a septic field mound.

[21] The finishing of the proposed accessory buildings would match the existing buildings.

[22] They will plant trees along the northeast corner of the Lands to hide the gazebo from neighbouring parcels.

Gerry Neustaedter Submissions

[23] He is the immediate landowner to the west of the Lands and will be able to see the proposed shed from his office.

[24] He is in support of the appeal and thinks the proposed accessory buildings will be an asset to the community.

[25] There is a big pond that will prevent the County road allowance from being built.

[26] The proposed shed will help to keep the Lands tidy.

Appellant's Rebuttal

[27] The author of the opposition letter is referring to a matter that occurred during the construction of the dwelling and this matter does not apply to the current appeal.

Development Authority's Closing Comments

[28] At this time, they are unaware of any plans to develop the County road allowance to the north of the Lands.

Appellant's Closing Comments

[29] The proposed shed will not affect the current road allowance and will not interfere with any future development of the road.

[30] He feels he had a fair opportunity to present his evidence to the Board.

FINDINGS & REASONS FOR DECISION

[31] The accessory buildings (storage shed and gazebo) require setback relaxations and are therefore a discretionary use in a Residential One District in accordance with section 48 of the *Land Use Bylaw*.

[32] The Board finds it has the authority to make a decision on this matter pursuant to section 687(3)(d) of the *Municipal Government Act*.

[33] The Board finds that the accessory buildings (storage shed and gazebo) meet all other accessory building regulations and fit the purpose and intent of the Residential One District, as outlined in section 48 of the *Land Use Bylaw*.

[34] The Board finds that the setback relaxations are required due to the limited developable area of the Lands which are impacted by topography, a wetland, and a septic field mound. The Board finds that the setback relaxation of the accessory building (storage shed) will not prohibit future development of the road allowance to the north of the Lands.

[35] The Board finds that the amended landscaping and building design conditions will help the accessory buildings (storage shed and gazebo) fit the design of the existing buildings and provide some screening from neighbouring parcels.

[36] The Board reviewed all evidence and arguments, written and oral, submitted by the parties and focused on the most relevant evidence and arguments in outlining its reasons. The Board also considered the context of the proposed development, sound-planning considerations, the merits of the application, and all applicable legislation, plans, and policies.

[37] Given the above findings and pursuant to section 687 of the *Municipal Government Act*, the Board finds that the proposed development would not unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land. The Board also finds the proposed development conforms to the use prescribed for the Lands in the *Land Use Bylaw*.

CONCLUSION

[38] For the reasons set out above, the appeal is allowed and the decision of the Development Authority is revoked. A development permit shall be issued subject to the above-noted conditions.

Dated at Rocky View County, in the Province of Alberta on December 3, 2019.



Daniel Henn, Chair
Subdivision and Development Appeal Board

EXHIBIT LIST

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD

NO.	ITEM
1.	Development Authority's Report to the Board (44 pages)
2.	Site Plan image of 31010 Woodland View submitted by Appellant (1 page)
3.	Circulation map submitted by Development Authority (1 page)
4.	Letter in support from Marianne Bogh Jensen (1 page)
5.	Letter in support from Gerry Neustaeder (1 page)
6.	Letter in support from Suad and Adnan Zalzala (1 page)
7.	Letter in opposition from Janet and Larry Bantle (1 page)